Stroehmann Brothers Company, Inc. and Carl E. Peterson, Petitioner and Bakery, Confectionery and Tobacco Workers International Union, Local 16. Case 3-RD-741

8 March 1984

DECISION AND CERTIFICATION OF RESULTS OF ELECTION

By Chairman Dotson and Members Zimmerman and Hunter

The National Labor Relations Board, by a threemember panel, has considered objections to an election held 23 and 24 June 1982 and the Regional Director's report recommending disposition of them. The election was conducted pursuant to a Stipulated Election Agreement. The tally of ballots shows 13 for and 62 against the Petitioner, with no challenged ballots.

The Board has reviewed the record in light of the exceptions and brief, has adopted the Regional Director's findings and recommendations, and finds that a certification of results of election should be issued.

CERTIFICATION OF RESULTS OF ELECTION

IT IS CERTIFIED that a majority of the valid ballots have not been cast for Bakery, Confectionery and Tobacco Workers International Union, Local 16 and that it is not the exclusive representative of these bargaining unit employees.

size that the Union does not contend that it has been the Employer's past practice to allow nonemployee representatives to campaign on its property or that its contract with the Employer expressly allows it such access for campaigning. The Union's sole apparent assertion is that similar access to the plant and the bulletin board for purposes of administering the contract imposes on the Employer a duty to tolerate nonemployee campaigning on its premises. It is clear, however, that the Union had adequate means to bring its campaign message to the unit employees it represented without entering upon the Employer's property. This being the case, the Employer was under no obligation to allow nonemployee union representatives access to the plant to campaign. NLRB v. Babcock & Wilcox Co., 351 U.S. 105 (1956).

Member Zimmerman finds that substantial and material issues of fact have been raised by the Union concerning alleged changes by the Employer from past practice and contract provisions for union access to the Employer's plant. Consequently, he would remand the Union's Objections 2 and 3 for a hearing.

¹ In adopting the Regional Director's recommendation to overrule the Union's Objections 2 and 3 regarding limitations on union access to the Employer's plan and the union bulletin board located therein, we empha-